



## Skagit River System Cooperative

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April 16, 2012

Tammy Conforti  
Levee Safety Program Manager  
U.S. Army Corps of Engineers  
Washington D.C.

Electronic Correspondence

Reference: COE-2010-0007 Policy Guidance Letter (PGL)- Process for Requesting a Variance From Vegetation Standards for Levees and Floodwalls

Dear Ms. Conforti:

Skagit River System Cooperative (SRSC) makes the following comments on behalf of the Swinomish Indian Tribal Community and the Sauk-Suiattle Indian Tribe. The Swinomish Tribe and the Sauk-Suiattle Tribe are federally recognized tribes and signatories to the Treaty of Point Elliott of 1855. Management of vegetation on PL 84-99 levees affects resources vital to the Tribes. The U.S. Army Corps of Engineers (USACE) has a trust responsibility to the Tribes to protect those resources.

Levees in the Skagit River basin maintained under the PL 84-99 program have an adverse effect on tribal resources that goes well beyond vegetation management under the February 8, 2012 draft Policy Guidance Letter (PGL). The Skagit River levees preclude development of riparian forests with natural banks that provide habitat for juvenile salmonids. Natural banks, as opposed to rip-rap levee revetments, have undercut banks with instream roots that provide complex cover for juvenile fish. Natural banks with intact riparian forest also recruit large woody debris (LWD) to rivers providing high quality complex habitat for juvenile salmonids. The Skagit River levees also isolate the river from its floodplain precluding development of backwater channels and active side channels that provide high quality habitat for salmonids. While the levees in the Skagit basin have been in place for many years they are continually maintained and repaired in a series of new federal actions that individually and cumulatively negatively impact tribal resources. The PL 84-99 program actively maintains the Skagit River in a degraded state for salmonids important to the tribes including ESA listed Chinook salmon and steelhead.

The Northwest Variance from the national standards does not address the major impacts of the PL 84-99 program but does provide some measure of habitat benefit. A reversion in the Skagit basin to the national standards of grass only vegetation is a step in the wrong direction.

SRSC remains concerned that procedures for obtaining a variance in the current draft of the PGL are still too onerous for the dike districts in the Skagit River basin to complete. The local dike districts do not have the staff or resources to complete all of the studies necessary to meet the requirements for a variance or to compile all of the information necessary to complete the USACE's NEPA obligation and ESA consultations. The USACE needs to take a more active role in aiding dike districts in developing variances that provide for both levee integrity and environmental benefits that come with riparian vegetation. In the PL 84-99 program the USACE instructs local sponsors how they must maintain their levees to remain eligible in the program and provides assistance to local sponsors to repair flood damaged levees. The USACE should also instruct and aid local sponsors on how to retain beneficial vegetation for habitat needs. Assisting local dike districts on how to retain habitat features would be an important step forward for the USACE in meeting its trust responsibility to the Tribes.

A system wide improvement framework (SWIF) may be a viable alternative to the variance process detailed in the PGL. However, while the process is encouraging an implemented SWIF is by no means a certain outcome. The SWIF process issued on November 29, 2011 will be complex to complete and require a substantial resource commitment from the local sponsors, federal resource agencies, Tribes, and the USACE to be successful. While it is encouraging that the SWIF process addresses environmental issues and tribal rights, the process is new and to our knowledge has not been completed in a river basin on the scale of the Skagit River. If a SWIF is seen as an obtainable alternative to a vegetation variance in the Skagit basin it will take a staff and resource commitment from the Seattle District to be successful. While the SWIF process shows promise the PGL Vegetation Variance process, as a standalone policy, appears unworkable for the Skagit River basin.

While the vegetation variance process appears unobtainable for local sponsors and the SWIF process requires a large collaborative effort, one thing that is certain is reversion to national vegetation standards in the Skagit basin would be a step backwards in the USACE's trust responsibility to the Swinomish Indian Tribal Community and Sauk-Suiattle Indian Tribe. While the Northwest Variance, which has been in place many years, does not come close to addressing the Tribe's concerns with the PL 84-99 program in the Skagit River basin, it does provide some resource benefits. It is unclear how the USACE would propose to meet its trust responsibility to the Tribes in the Skagit River basin if the local dike districts simply chose to maintain their levees at the national vegetation standard.

Skagit River System Cooperative appreciates the opportunity to comment on the PGL for variances from national vegetation standards. We appreciate our relationship with the USACE and look forward to working with the Seattle District on PL 84-99 issues in the Skagit River basin. If you have any questions about our comments please contact me at (360) 466-1512 or email [swalsh@skagitcoop.org](mailto:swalsh@skagitcoop.org).

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Walsh", written in a cursive, flowing style.

Stan Walsh  
Environmental Services Manager  
Skagit River System Cooperative

Cc: Estok (USACE Seattle District  
Morris (USACE Seattle District)  
Loomis (Swinomish)  
Wolten (Sauk-Suiattle)